

**SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423**

ENVIRONMENTAL ASSESSMENT

DOCKET NO. AB 337 (Sub-No. 8X)

**Dakota, Minnesota & Eastern Railroad Corporation - Abandonment Exemption - in
Olmsted County, Minn.**

BACKGROUND

In this proceeding, Dakota, Minnesota & Eastern Railroad Corporation (DM&E or railroad), d/b/a Canadian Pacific, filed a petition under 49 C.F.R. § 1152.20 seeking exemption from the requirements of 49 U.S.C. § 10903 in connection with the abandonment of a line of railroad in Olmsted County, Minnesota (MN). The rail line proposed for abandonment is a 2.01-mile segment in and near Eyota, MN, and extends from a connection with DM&E's Waseca Subdivision at Milepost 37.9 to where the rail line ends near County Road 9 (the Line). A map depicting the Line in relationship to the area served is appended to this environmental assessment (EA). If the petition becomes effective, the railroad would be able to dispose of the Line and right-of-way.

DESCRIPTION OF THE LINE

The Line is in southeastern Minnesota. The right-of-way is generally 100 feet wide and the Line traverses a generally rural and agricultural area. The southern portion of the Line is located within the city limits of Eyota. Other than rails, ties and other track material, DM&E states that there are no railroad structures on the Line that are 50 years of age or older.

The Line is the southern portion of a rail segment called the Plainview Branch. The Plainview Branch was constructed in 1878 from Eyota to Plainview, MN by the Plainview Railway Company, and was initially used for both passenger and freight rail service. The Plainview Branch was subsequently purchased by the Winona and St. Peter Railroad, a subsidiary of the Chicago and North Western Railway (CNW). DM&E states it acquired the Plainview Branch from CNW in 1986, but notes that passenger rail service ended many years before DM&E's acquisition of the rail line. In 1997, DM&E abandoned the portion of the Plainview Branch located north of State Route 9.

According to DM&E, there has been no overhead or through traffic on the Line since 1997. Currently, the sole shipper on the Line is Krueger Gas Service (KGS), which maintains a

propane receiving and distribution facility on the Line approximately one-half mile north-northwest of Milepost 37.9 (i.e., south of U.S. Route 14). KGS states its facility received an average of 35 loaded railcars of propane per year between 2005 and 2013. However, loaded deliveries increased to an average of 81 loaded cars per year between January 2014 and January 2017.

If the proposed abandonment is approved, DM&E intends to sell the first half mile of the Line to KGS for use as private industry track, and KGS would continue to receive railcar deliveries from DM&E. DM&E also entered into an agreement with the Parks & Trails Council of Minnesota (Council) through which the Council would purchase the remaining portion of the Line to County Road 9. The Council would develop that portion of the Line into a recreational trail.

ENVIRONMENTAL REVIEW

DM&E submitted an environmental report that concludes the quality of the human environment would not be affected significantly because of the abandonment. DM&E served the environmental report on appropriate Federal, state, and local agencies as required by the Surface Transportation Board's (Board) environmental rules [49 C.F.R. § 1105.7(b)].¹ The Board's Office of Environmental Analysis (OEA) reviewed and investigated the record in this proceeding.

Diversion of Traffic

Because KGS would continue to receive rail service, the proposed abandonment would not adversely impact the development, use and transportation of energy resources or recyclable commodities; transportation of ozone-depleting materials; or result in the diversion of rail traffic to truck traffic that could result in significant impacts to air quality or the local transportation network.

Salvage Activities

Under the proposed abandonment, rail traffic would continue to move over the first half mile of the Line. For the portion of the Line to be sold to the Council, the sale includes the rails, ties and other track materials. Therefore, no salvage activities would be conducted by DM&E under the proposed abandonment.

The railroad believes that the proposed abandonment would not be inconsistent with local or regional land use plans. The Natural Resources Conservation Service has not responded to the

¹ The railroad's environmental and historic reports are available for viewing on the Board's web site at www.stb.gov by going to "E-Library," selecting "Filings," and then conducting a search for AB 337 (Sub-No. 8X).

railroad's environmental report. However, because salvaging activities would not occur under the proposed abandonment, OEA concludes that prime farmland soils would not be impacted.

The U.S. Fish and Wildlife Service (USFWS) has not responded to the railroad's environmental report. However, because salvaging activities would not occur under the proposed abandonment, OEA concludes that any federally listed or proposed species and/or designated or proposed habitat with the vicinity of the Line should not be adversely affected by proposed abandonment. OEA provided the USFWS with a copy of this EA for review and comment.

The U.S. Army Corps of Engineers, St. Paul District (Corps) has not responded to the railroad's environmental report. However, because salvaging activities, including work within waters of the U.S., would not occur under the proposed abandonment, OEA concludes that the proposed abandonment would not require a Clean Water Act, Section 404 permit. OEA provided the Corps with a copy of this EA for review and comment.

The National Geodetic Survey (NGS) states that no geodetic station markers have been identified near the Line.

The Minnesota Pollution Control Agency (MPCA) notes that (1) the disturbance of one or more acres of land would require a National Pollutant Discharge Elimination System/State Disposal System Construction Stormwater Permit from MPCA; and (2) any salvaged railroad ties treated with pentachlorophenol or creosote should be handled, used and disposed of appropriately. OEA notes, however, that the proposed abandonment does not include any salvaging activities.

Olmsted County, MN states that the proposed abandonment would not result in significant environmental impacts and that the proposed use of much of the Line as a recreational trail is consistent with long range transportation plans.

The City of Eyota, MN states that the proposed abandonment is consistent with its comprehensive plan.

HISTORIC REVIEW

The railroad submitted an historic report as required by the Board's environmental rules [49 C.F.R. § 1105.8(a)] and served the report on the Minnesota State Historic Preservation Office (SHPO), pursuant to 49 C.F.R. § 1105.8(c). In its response (MN SHPO No. 2015-1520, dated April 17, 2015), the SHPO states it will participate in consultation upon initiation of the Section 106 process by the federal agency.²

² By memorandum dated December 10, 2009, OEA (formerly the Section of Environmental Analysis) informed all SHPOs that applicants seeking authority from the Board to abandon rail

Pending receipt of SHPO's opinion on the proposed abandonment including a determination on whether the Line may be potentially eligible for listing on the National Register of Historic Places, OEA is recommending a condition requiring the railroad to retain its interest in and take no steps to alter the historic integrity of all historic properties including sites, buildings, structures and objects within the project right-of-way (the Area of Potential Effect) eligible for listing or listed in the National Register of Historic Places until completion of the Section 106 process. Guidance regarding the Board's historic preservation review process is available on the Board's website at <http://www.stb.gov/stb/environment/preservation.html>.

OEA provided the SHPO with a copy of this EA for review and comment.

OEA conducted a search of the National Park Service's Native American Consultation Database at <https://grantsdev.cr.nps.gov/Nagpra/NACD/> and the U. S. Department of Housing and Urban Development's Tribal Directory Assessment Tool at <https://egis.hud.gov/tadat/Tribal.aspx> to identify federally recognized tribes that may have ancestral connections to the project area. The database identified the following 12 tribes for Olmsted County:

- Flandreau Santee Sioux Tribe of South Dakota;
- Lower Sioux Indian Community in the State of Minnesota;
- Prairie Island Indian Community in the State of Minnesota;
- Santee Sioux Nation, Nebraska;
- Upper Sioux Community of Minnesota;
- Apache Tribe of Oklahoma;
- Cheyenne and Arapaho Tribes, Oklahoma;
- Iowa Tribe of Kansas and Nebraska;
- Sisseton-Wahpeton Oyate of the Lake Traverse Reservation, South Dakota;
- Spirit Lake Tribe, North Dakota;
- Fort Belknap Indian Community of the Fort Belknap reservation of Montana; and
- Menominee Indian Tribe of Wisconsin.

OEA provided each tribe with a copy of this EA for review and comment.

CONDITIONS

OEA recommends that the following condition be imposed on any decision granting

lines may act on behalf of the Board when complying with the Section 106 regulations of the National Historic Preservation Act. This memorandum is available on the Board's web site at <https://www.stb.gov/stb/docs/EnvironmentalDecisions/Delegation%20of%20106%20in%20Rail%20Abandonments.pdf>

abandonment authority:

1. DM&E shall retain its interest in and take no steps to alter the historic integrity of all historic properties including sites, buildings, structures, and objects within the right-of-way of the Line (the Area of Potential Effect) that are eligible for listing or listed in the National Register of Historic Places until the Section 106 process of the National Historic Preservation Act, 16 U.S.C. § 470f, has been completed. DM&E shall report back to OEA regarding any direct consultations with the SHPO and the public. DM&E may not file its consummation notice until the Section 106 process has been completed and the Board has removed this condition.

CONCLUSIONS

Based on the information provided from all sources to date, OEA concludes that, as currently proposed, and if the recommended condition is imposed, abandonment of the Line would not significantly affect the quality of the human environment. Therefore, the environmental impact statement process is unnecessary.

Alternatives to the proposed abandonment would include denial (and therefore no change in operations and no salvage activities), discontinuance of service without abandonment, and continued operation by another operator. In any of these cases, the existing quality of the human environment and energy consumption should not be affected.

PUBLIC USE

Following abandonment and salvage of the rail line, the right-of-way may be suitable for other public use. A request containing the requisite four-part showing for imposition of a public use condition (49 C.F.R. § 1152.28) must be filed with the Board and served on the railroad within the time specified in the Federal Register notice.

TRAILS USE

A request for a notice of interim trail use (NITU) is due to the Board, with a copy to the railroad, within the time specified in the Federal Register notice. Nevertheless, the Board will accept late-filed requests as long as it retains jurisdiction to do so in a particular case. This request must comply with the Board's rules for use of rights-of-way as trails (49 C.F.R. § 1152.29).

PUBLIC ASSISTANCE

The Board's Office of Public Assistance, Governmental Affairs, and Compliance (OPAGAC) responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact OPAGAC directly at 202-245-0238, or mail inquiries to Surface

Transportation Board, Office of Public Assistance, Governmental Affairs, and Compliance, Washington, DC 20423.

COMMENTS

If you wish to file comments regarding this environmental assessment, please send your comment letter to Surface Transportation Board, 395 E Street SW, Washington, DC 20423, to the attention of Dave Navecky, who prepared this EA. Environmental comments may also be filed electronically on the Board's web site, www.stb.gov, by clicking on the "E-FILING" link. **Please refer to Docket No. AB 337 (Sub-No. 8X) in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this EA, please contact Dave Navecky, the environmental contact for this case, by phone at 202-245-0294, or e-mail at david.navecky@stb.gov.

Date made available to the public: May 26, 2017.

Comment due date: June 26, 2017.

By the Board, Victoria Rutson, Director, Office of Environmental Analysis.

Attachment